

R590. Insurance, Administration. (Effective 10-9-07)

R590-152. Health Discount Programs and Value Added Benefit Rule.

R590-152-1. Authority.

This rule is promulgated by the commissioner under 31A-8a-210, which authorizes the commissioner to enforce Chapter 8a and protect the public interest.

R590-152-2. Purpose and Scope.

(1) The purpose of this rule is to describe initial and renewal license procedures, fees, and other authorized charges, required and prohibited practices, advertising and marketing activity, disclosure requirements, provider agreements, dispute resolution, and record keeping.

(2) This rule applies to health discount programs, health discount program operators, and health discount program marketers.

(3) This rule applies to a value added benefit provided by a person licensed under Title 31A, Chapters 7 or 8.

R590-152-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-8a-102 and the following:

(1) "Administration of the health discount program" means the processes to solicit members, enroll members, maintain the membership, resolve disputes with members, disenroll members, and collect or refund fees and other authorized charges.

(2) "Authority to do business in this state" means having other applicable licenses as required by statute and operating within the scope of such licenses.

(3) "Health discount program marketer" means a person or entity, including a private label entity, that places its name on and markets or distributes a health discount program but does not operate the marketed or distributed health discount program.

(4) "Private label entity" means an entity that purchases a health discount program from a health discount program operator and issues or markets the obtained health discount program under the private label entity's name or logo.

(5) "Prominently" means not less than 14-point type or no smaller than the largest type on the page if larger than 12 point type.

R590-152-4. General Information.

(1) The commissioner may examine, audit, or investigate the business and affairs of any health discount program operator or a licensed health discount program marketer or any person the commissioner believes may be operating or marketing a health discount program.

(2) A health discount program, a health discount program operator, or a health discount program marketer that offers an insurance benefit as part of a health discount program or in addition to a health discount program must comply with statutes and rules pertaining to the solicitation, negotiation, and sale of insurance in Utah that are otherwise applicable to the altering of such benefit.

R590-152-5. Licensing (Application, Initial, Renewal).

(1) The following must be licensed prior to offering a health discount program:

- (a) a health discount program operator; or
 - (b) a health discount program marketer that markets health discount programs from more than one health discount program operator.
- (2) The following do not require a license as a health discount program operator or health discount program marketer:
- (a) a licensee licensed under Chapters 7 or 8 if only offering a value added benefit;
 - (b) a health discount program marketer or private label entity issuing or selling one of more health discount programs obtained from a single health discount program operator.
- (3) The "Application for Health Discount Program Operator or Health Discount Program Marketer" must be completed and submitted with the appropriate fee.
- (4) The commissioner may deny an application from a health discount program operator or a health discount program marketer if the applicant would not be in compliance with Chapter 31A-8a because the applicant, in this or any other jurisdiction, for a matter dealing with a health discount program is:
- (a) under investigation; or
 - (b) has been found in violation of a statute or regulation.
- (5) A licensed health discount program operator must notify the commissioner each time a health discount program marketer or private label entity is added or deleted during the annual licensure period.
- (6) Annual licensure period.
- (a) A license issued under this section is for one annual period which expires each December 31st.
 - (b) A licensee desiring to continue to do business in this state must renew its license prior to December 31st each year by submitting an Application for Health Discount Program Operator or Health Discount Program Marketer and paying the required fee.

R590-152-6. Fees and Other Authorized Charges.

- (1) A health discount program operator may provide discounts or free services through contracted providers to subscribers in exchange for a periodic payment to the program or as a benefit in connection with membership in a particular group.
- (2) A health discount program operator may charge:
 - (a) a non-refundable one-time enrollment charge; and
 - (b) a refundable periodic fee.
- (3) A health discount program operator that charges fees for a time period in excess of one month must, in the event of cancellation of the membership by the health discount program operator, make a pro-rata refund of the periodic fees paid by the member.

R590-152-7. Required Practices.

- (1) A health discount program operator must have an active toll-free telephone number for members to call.

(2) Face to face, paper, telephone, and electronic communications with clients or potential clients must state that the health discount program is a discount plan and not insurance.

(3) When a health discount program operator or a health discount program marketer sells a health discount program together with any other product that can be [sold]purchased separately, including insured benefits, an itemized list of the fees or premiums for each individual product must be provided in writing to the client at solicitation.

(4) Information available to a health discount program member via a health discount program operator's web page must be current at least monthly.

R590-152-8. Value Added Benefit.

(1) Any value added benefit must actually exist and a copy of the contract verifying such existence must be available upon request to the commissioner.

(2) Prior to any offering of a value added benefit, a person licensed under Title 31A, Chapter 7 or 8, shall:

(a) file with the commissioner a value added benefits list that includes the following:

(i) the insurer's name and address;

(ii) the insurer's policy form number(s) to which the value added benefit applies; and

(iii) a description of the benefits offered.

(b) comply with Sections R590-152-10 and 11, if providing a member discount card.

R590-152-9. Prohibited practices.

(1) A health discount program operator may not make any payments to providers for:

(a) participation in the health discount program;

(b) capitation payments;

(c) signing fees;

(d) bonuses; or

(e) other forms of compensation.

(2) A health discount program operator may not offer any insurance benefits unless licensed as an insurance producer and contracted and appointed by the insurer providing the insurance benefits.

R590-152-10. Advertising and Marketing.

(1) The format and content of any advertisement shall be sufficiently complete and clear as to avoid deceiving or misleading the reader, viewer, or listener.

(2) An advertisement of any insured product or benefit must comply with applicable provisions of Subsections 31A-23a-102 (12) and (13) and Rule R590-130, Rules Governing Advertisements of Insurance.

(3) A health discount program operator must approve in writing all advertisements, marketing materials, brochures, and discount cards used by a health

discount program marketer marketing a health discount program operator's health discount program.

(4) All advertisements, marketing materials, brochures, and discount cards used by a health discount program operator and the health discount program operator's health discount program marketer and by a health discount program marketer marketing more than one health discount plan operator's health discount program must be available to the commissioner upon request.

(5) The health discount program operator must have an executed written agreement with a health discount program marketer prior to the health discount plan marketer marketing, promoting, selling, or distributing a health discount program.

R590-152-11. Disclosures.

(1) A health discount program operator must provide the disclosures required by Section 31A-8a-205.

(2) The membership card shall prominently state: "This is not health insurance."

(3) Disclosure materials provided to a purchaser or potential purchaser must include:

(a) membership materials;

(b) new enrollee information;

(c) a printed list of providers, or access to the health discount program operator's web page, that have agreed by written contract with the health discount program to accept the program;

(d) a statement that "A health discount program member is responsible for the entire payment of their medical or health care bill after the discount is applied."; and

(e) the complete terms and conditions of any refund policy.

(4) A health discount program operator or health discount program marketer must:

(a) provide a purchaser a 30-day money back guarantee, which allows the purchaser to terminate the contract and receive a full refund of any periodic fee paid; and

(b) the 30-day period must commence when the purchaser receives the membership materials.

R590-152-12. Contracts.

(1) A provider agreement between a health discount program operator and a provider network shall require:

(a) the provider network to have a written agreement with each provider in the network authorizing the provider network to contract with a health discount program operator on behalf of the provider; and

(b) the health discount program operator to inform each provider within the contracted provider network with information about the health discount program.

(2) A provider agreement between a health discount program operator and another health discount program operator that has contracted with a provider network shall require the contract with the provider network to comply with Subsection (1).

R590-152-13. Dispute Resolution Procedures.

A health discount program operator must:

- (1) file its dispute resolution procedures with the commissioner pursuant to Section 31A-8a-203; and
- (2) comply with its filed dispute resolution procedures.

R590-152-14. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-152-15. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.

R590-152-16. Severability.

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

KEY: insurance, medical discount program

Date of Enactment or Last Substantive Amendment: October 9, 2007

Notice of Continuation: November 27, 2002

Authorizing, and Implemented or Interpreted Law: 31A-1-103; 31A-2-201